

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Tuesday 18 September 2012 at 10.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors B Graham and K Holroyd

Apologies:

Apologies for absence were received from Councillors A Hopgood

Also Present:

Councillor B Alderson

Councillor E Bell

H Johnson – Licensing Team Leader

Councillor C Carr – Interested Party

K Martin – Interested Party

M Foster – Applicant's representative

S Singh – Applicant

Mrs Kaur – Applicant's wife and business partner

1 Declarations of Interest (if any)

There were no declarations of interest received.

2 The Minutes of the Meeting held on 22 August 2012

The Minutes of the meeting held on 22 August 2012 were agreed as a correct record and were signed by the Chair.

3 Application for the Grant of a Premises Licence - Arcadia Convenience Store, 1 Arcadia, Ouston

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application to vary a Premises Licence in respect of Arcadia Convenience Store, Ouston (for copy see file of Minutes).

A plan showing the location of the premises and a copy of the application had been circulated to Members together with representations from Councillor Carr, the Parish Council, Mrs Martin and a bundle of evidence provided by the Applicant.

Councillor Carr referred to a letter by the local MP which wasn't included in the documentation. Members were advised that this had been received outside the period for making relevant representations in accordance with the Licensing Act 2003.

Councillor Carr addressed the Sub-Committee on behalf of his constituents, and with the agreement of the Applicant and the Sub-Committee he also spoke on behalf of Ouston Parish Council.

He was disappointed that the Police were not in attendance as he had questions relating to incidents that had occurred since the premises had opened. He also considered that Beat Officers could have given valuable information about other occasions when the Police had been called, but they had moved on since the last licence was held at the premises.

Councillor Carr made reference to his letter of representation circulated with the papers for the hearing which set out his objections under the licensing objectives. There had been substantial anti-social behaviour problems around the school and a detailed plan circulated at the hearing showed the close proximity of the school to the premises.

Local residents felt threatened by youths congregating outside the premises and many residents were parents of children who attended the after school childcare facility which was open until 6.30pm. Parents and children therefore passed the premises and felt intimidated.

From the floor plan circulated with the papers 30-40% of the store was set aside for the sale of alcohol and this would pose a risk to the health of the general public. He appreciated that Public Health was not currently a licensing objective but he asked the Sub-Committee to take into account his concerns. There were other stores in close proximity and an additional premises would have an effect with regard to cumulative impact.

Councillor Carr asked if he could read out a letter from the school. At the time of making representation the school was closed. Following legal advice the Sub-Committee heard the content of the letter but acknowledged that it was not an official objection as it was received outside the relevant period.

The Governors of Ouston Junior School were concerned about the close proximity of the premises to the school and the potential risk to pupils due to the possible increase in anti-social behaviour. Young people often walked to school unaccompanied and may feel threatened by older children who were congregating outside the premises.

The Parish Council had very strong feelings and were concerned about anti-social behaviour and general nuisance around the shops.

Councillor Carr responded to questions. He advised that the after care facility at the school accommodated children from as young as 2-3 years up to the age of 15.

The application had been made on 16 June 2012 which was before the summer holidays but the Notice had not been seen and had only come to the Governors attention after the recess.

With regard to the reference to other licensed premises in the area it was clarified that there were 2; the Jet Garage at 0.2 miles away (3-4 minute walk) and Cannocks at 0.5 miles away (7-10 minute walk). The third premises Cooks Corner did not have a Premises Licence.

It was clarified that most of the representations made referred to issues with the previous premises licence, however Councillor Carr stated that residents had real concerns about the shop since it had re-opened.

He accepted that Sgt Robson currently worked in licensing at Durham Constabulary but he would not have been as familiar with the incidents at the premises as the Beat Officers at that time.

The Council did not have a cumulative impact policy but Councillor Carr asked the Sub-Committee to take into account the number of other licensed premises and residential properties in Ouston and Urpeth.

Mrs Martin, local resident addressed the Sub-Committee. She stated that there was also a takeaway nearby which children naturally congregated outside. Incidents had taken place since the premises had opened which she had reported to the Police. The number of youths gathered outside had increased and it was intimidating for parents and children to pass the premises to access the childcare facility at the school. She made reference to the other licensed premises in the area and asked what the saturation point would be for no further licences to be granted.

The petition had been submitted to demonstrate that everyone in the community had concerns. The ratio of the sale of alcohol to other goods was 60/40% and the hours of trading were not acceptable. A sign had been erected that alcohol was 'coming soon' although this had now been removed.

During questions of Mrs Martin it was clarified that the floor plan circulated with the papers showed that a 60/40% split was incorrect. With regard to the location of the alcohol in the store Mrs Martin maintained that it should be placed at the back of the shop to make it more difficult for shoplifters and to reduce temptation to underage youths.

The Applicant's representative asked if she would be in agreement with the introduction of Challenge 25 to allay fears. Mrs Martin responded that she simply did not want alcohol to be sold at the premises.

With regard to the previous licence Mrs Martin had understood that it had been revoked but it was clarified that it had been surrendered.

M Foster, the applicant's representative addressed the Sub-Committee and referred to the written representations of the Applicant. The Applicant and his wife who was

also his business partner employed 9 people at 2 other premises, both of which were managed without problem.

The Police, Environmental Health and Trading Standards had offered no objections to the application and the operating schedule addressed the concerns put forward.

He asked the Sub-Committee to consider Points 4.4 and 5.3 of the Council's Statement of Licensing Policy. The conditions were in line with the Policy and the management of the premises would be reflected in the training to be provided. The applicant and members of staff had attended accredited training courses and one to one training would also be carried out with a record kept for inspection purposes.

The Applicant had agreed to introduce Challenge 25 with appropriate signage, and posters would address the issue of proxy purchases.

A Refusals Register would be kept, together with an Incident Book to record any other issues.

CCTV had now been installed, details of which were included in the Applicant's bundle. The monitor with images of all the cameras would be located in front of the service point and this would not only act as a deterrent but would make customers feel safe.

The Applicant had invested a significant amount in the premises and alcohol sales were necessary. If not available they could lose 'ancillary sales'. 20% of the overall products on sale would be alcohol. As a convenience store if a full range of products, including alcohol, was not provided customers would go elsewhere for all other ancillary goods. This was known as the 'shopping basket effect'.

In response to a question from Councillor Carr about how often the Applicant had been on site since the shop had re-opened M Foster advised that as the premises licence had not yet been granted it was not necessary for him to be present.

The Applicant was asked about recent incidents by Councillor Carr and about an occurrence the evening before. The Chair advised that as there was no evidence to support the reference to previous incidents they would not be taken into account.

M Foster considered that Councillor Carr's questioning of the applicant was adversarial and bullying, a statement which Councillor Carr asked M Foster to withdraw. Following advice from the Legal Officer the Chair advised that the comments would be disregarded by the Sub-Committee and would not be referred to in their deliberations.

In response to a further question from Councillor Carr about the shopping basket effect Mrs Kaur reiterated that as a convenience store, if for example they did not have a paypoint terminal or opened early for the sale of newspapers, they would lose customers for all other purchases.

With regard to the signs advertising the sale of alcohol Mrs Kaur apologised and accepted that they should not have been displayed before a licence was issued.

Mrs Kaur explained why not all staff would be trained in the CCTV system. This was to allow cover by other family members but she advised that a straightforward reference guide would be kept with the recorder.

In summing up Councillor Carr stated that there was a lot of discontent in Ouston and Urpeth as demonstrated by the number of signatures on the petition, as well as concerns from the school governors. He reiterated their concerns about the sale of alcohol to young people and the risk of increased anti-social behaviour.

Mrs Martin reiterated the point about the close proximity of the premises to the school and how intimidating it would be for children and parents walking past the youths congregating outside. The number of licensed premises in Ouston and Urpeth had reached saturation point.

M Foster stated that this was a carefully considered application by responsible, experienced operators and Members needed to consider whether the representations by the objectors would impact upon the licensing objectives. The issues raised mainly related to the previous licence with their representations relying on speculation. He made reference to relevant case law and Section 182 Guidance. Cumulative impact must relate to at least one of the licensing objectives and this had not been demonstrated, nor had the Licensing Authority a Cumulative Impact Policy in place.

Reference had been made to incidents since the premises had opened but he stated that there had been no evidence to support this.

The premises could not be responsible for individuals beyond the immediate area surrounding the property as stated in paragraphs 2.3 and 2.4 of Section 182 Guidance. There were a number of controls to ensure that the conditions imposed on a Premises Licence were adhered to including the power of review, and as stated in the Statement of Licensing Policy there were a number of other mechanisms for addressing anti-social behaviour such as DPPOs and powers under the Environmental Protection Act.

To conclude he asked the Sub-Committee to consider paragraphs 4.4 and 4.5 of the Statement about promoting good management which the applicant had sought to provide within the operating schedule.

Members retired to deliberate the application in private at 11.50am and returned at 12.20pm.

In determining the application Members had considered the report of the Licensing Officer and the written and verbal representations of Councillor Carr, Mrs Martin and the applicants, together with the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That the application for a Premises Licence be granted as follows:-

Opening Hours of the Premises Monday to Sunday 07:00 to 21:00 hours
Sale of Alcohol (off the premises) Monday to Sunday 07:00 to 21:00 hours

- (i) The Licence Holder shall ensure that at all times when the premises are open for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence
- (ii) All staff will be trained on their responsibilities under the Licensing Act, with particular focus upon sales of age restricted products and proxy sales. A record will be kept of training in a manual, which will be available for inspection by the Police, Trading Standards or the Licensing Authority. Such training will be refreshed initially after three months, and thereafter every six months. Refresher training will also be documented.
- (iii) All members of staff at the premises shall seek 'credible photographic proof of age evidence' from any person who appears to be under the age of 25 years (Challenge 25 Scheme) and who is seeking to purchase any age restricted product on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
- (iv) The premises will operate a 'Refusals book' to record refusals of sales of age restricted products, in line with the premises Challenge 25 policy and proxy purchase refusals. Such will be available for inspection by the Police, Trading Standards or the Licensing Authority.
- (v) A record of incidents will be kept and maintained at the premises to record incidents of crime and disorder associated with the provision of licensable activities from the premises, or incidents in the vicinity brought to the attention of the management. Such will be available for inspection by the Police, Trading Standards or the Licensing Authority upon request.
- (vi) A digital CCTV system will be operated and maintained at the premises. Recordings will be retained for 28 days and be available for inspection by the Police, where the Police have justified that such a request is necessary for investigating or preventing crime or apprehending or prosecuting an offender.
- (vii) The CCTV system will cover the inside and the outside of all exits and entrances to the premises; this is to include any rear doors and yards.

- (viii) The majority of permanent staff working at the store will be trained to operate the CCTV system; this is to include viewing and downloading of the system.
- (ix) The Designated Premises Supervisor will provide their direct contact details to the Licensing Authority for the purpose of being contacted should any of the responsible authorities wish to contact them.